

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

S.C., an individual,

No. 3:21-cv-5147

Plaintiff,

VS.

BLACK HILLS FOOTBALL CLUB, a Washington nonprofit corporation; and DAVID E. CROSS, individually,

## Defendants.

**NOTICE OF REMOVAL TO FEDERAL  
COURT PURSUANT TO 28 U.S.C. §  
1441(a)**

**(Clerk's Action Required)**

TO: THE CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

AND TO: COUNSEL FOR PLAINTIFF S.C.

Please take notice that Defendant Black Hills Football Club (hereinafter, "BHFC") hereby removes to this Court the state court action described below. In support thereof, Defendant states as follows:

1. On or about February 2, 2021, Plaintiff filed the Summons and Complaint with the Thurston County Superior Court.

2. On or about February 5, 2021, Plaintiff S.C. served a civil summons and complaint captioned for the Superior Court of the State of Washington for Thurston County, via an Acceptance of Service signed by Jack Zahner on behalf of BHFC.

3. The Superior Court Cause Number assigned to the above-mentioned case is: 21-2-00151-34.

271i80

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(a) - Page 1

[No. 3:21-cv-5147]

SMITH FREED EBERHARD P.C.  
1215 Fourth Avenue, Suite 900  
Seattle, Washington 98161  
Telephone: (206) 576-7575  
Facsimile: (206) 576-7580

## I. PARTIES

4. In the Complaint, Plaintiff alleges that she is resident of Gallatin County, State of Montana.

5. Defendant BHFC is a nonprofit corporation organized under the laws of Washington that operates in Thurston County, Washington, with a principal place of business being in Olympia Washington.

6. David Cross is alleged to be a resident of Thurston County, State of Washington.

## II. NATURE OF CASE

7. Pursuant to Plaintiff's Complaint, Plaintiff S.C. was a soccer player with Defendant BHFC in or around 2008-2011. Plaintiff S.C. further alleges that during that time period she was subjected to sexual harassment and sexual abuse by Defendant David Cross in his role as an agent and/or employee of Defendant BHFC. Plaintiff has asserted claims of negligence, gross negligence, sexual discrimination under RCW 49.60, negligent infliction of emotional distress, and outrage against Defendants BHFC and David Cross. Plaintiff seeks damages for medical treatment expenses, the expenses of medication, and other special expenses, including lost wages, as well as attorney fees, costs and other remedies under RCW 49.60 *et seq.*, and all general damages for pain and suffering, including physical and emotional.

### III. AMOUNT IN CONTROVERSY

8. The removing Defendant bears the burden of establishing by a preponderance of the evidence that the amount in controversy exceeds the jurisdictional amount. *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996).

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §  
1441(a) - Page 2

[No. 3:21-cv-5147]

SMITH FREED EBERHARD P.C.  
1215 Fourth Avenue, Suite 900  
Seattle, Washington 98161  
Telephone: (206) 576-7575  
Facsimile: (206) 576-7580

271i80

9. Plaintiff alleges that she is entitled to special damages, attorney fees under RCW 49.60 et seq., and general damages.

10. On information and belief, Plaintiff is seeking damages in excess of \$75,000. Therefore, the amount in controversy requirement for diversity jurisdiction is met.

#### IV. INTRADISTRICT ASSIGNMENT

11. This matter is being moved to the Western District at Seattle because per LCR 3(d) and Plaintiff's Complaint, her claim arose in Thurston County Washington and Plaintiff filed her Complaint in Thurston County Superior Court in the State of Washington.

## **V. JURISDICTION**

12. For purposes of determining jurisdiction under 28 U.S.C. § 1332, Plaintiff is a citizen of the State of Montana. Defendant Cross is alleged to be a resident of Thurston County, Washington. Defendant BHFC is a nonprofit corporate entity organized in the State of Washington, with its principal place of business in Olympia, Washington.

13. The amount in controversy exceeds \$75,000.

14. This Court, therefore, has jurisdiction pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441.

## VI. TIMELINESS

15. The Summons and Complaint for Defendant BHFC were served on February 5, 2020. The date of filing this Notice of Removal is within thirty (30) days from the date this matter first became removable. Defendant is concurrently filing a copy of this Notice of Removal with the clerk of the Thurston County Superior Court and the attorney representing plaintiff, pursuant to 28 U.S.C § 1446(d).

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(a) - Page 3

SMITH FREED EBERHARD P.C.  
1215 Fourth Avenue, Suite 900  
Seattle, Washington 98161  
Telephone: (206) 576-7575  
Facsimile: (206) 576-7580

271i80

## **VII. COPY OF SUMMONS AND COMPLAINT**

16. Included with this Notice of Removal is a copy of the Complaint filed in Thurston County Superior Court Cause No. 21-2-00151-34 and the Amended Complaint in the same action. A Civil Cover Sheet (Form JS-44 revised) is also included.

17. Pursuant to LCR 101(c), Defendant will file all additional records and proceedings in the State Court case, together with defense counsel's verification, within fourteen days of the filing of this Notice of Removal.

DATED this 1<sup>st</sup> day of March, 2021.

## SMITH FREED EBERHARD P.C.

By:

Thomas P. McCurdy, WSBA #41568  
Jessica R. Kamish, WSBA #48378  
Of Attorneys for Defendant Black Hills  
Email: [TMCCURDY@smithfreed.com](mailto:TMCCURDY@smithfreed.com)  
Email: [JKAMISH@smithfreed.com](mailto:JKAMISH@smithfreed.com)

1215 Fourth Avenue, Suite 900  
Seattle, WA 98161

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §  
1441(a) - Page 4

SMITH FREED EBERHARD P.C.  
1215 Fourth Avenue, Suite 900  
Seattle, Washington 98161  
Telephone: (206) 576-7575  
Facsimile: (206) 576-7580

271i80

1

**CERTIFICATE OF SERVICE**

2

3 Pursuant to RCW 9A.72.085, I certify under penalty of perjury and the laws of the State  
 4 of Washington that: On the below date, I delivered a true and correct copy of NOTICE OF  
 5 REMOVAL PURSUANT TO 28 U.S.C. § 1441(a) via the method indicated below to the following  
 6 party(ies) at their address(es) listed:

7 **Counsel for Plaintiff**

8 Darrell L. Cochran, WSBA #22851  
 Kevin M. Hastings, WSBA #42316  
 Andrew S. Ulmer, WSBA #51227  
 Bridget T. Grotz, WSBA #54520  
 Pfau Cochran Vertetis Amala PLLC  
 909 A Street, Suite 700  
 Tacoma, WA 98402  
[darrell@pcvalaw.com](mailto:darrell@pcvalaw.com)  
[kevin@pcvalaw.com](mailto:kevin@pcvalaw.com)  
[aulmer@pcvalaw.com](mailto:aulmer@pcvalaw.com)  
[bgrotz@pcvalaw.com](mailto:bgrotz@pcvalaw.com)  
[laura@pcvalaw.com](mailto:laura@pcvalaw.com)  
[sawes@pcvalaw.com](mailto:sawes@pcvalaw.com)  
[jgott@pcvalaw.com](mailto:jgott@pcvalaw.com)

16

	Via Hand Delivery
	Via U.S. Mail, postage prepaid First Class
	Via Facsimile
<b><u>XXX</u></b>	Via Electronic Mail [per e- service agreement]

17

18

19

20 DATED March 1, 2021 at Seattle, Washington.

21

22 *s/Melanie Kent*

23 Melanie Kent

24

25

26

271i80

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. §  
 1441(a) - Page 5

[No. 3:21-cv-5147]

SMITH FREED EBERHARD P.C.  
 1215 Fourth Avenue, Suite 900  
 Seattle, Washington 98161  
 Telephone: (206) 576-7575  
 Facsimile: (206) 576-7580